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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/595,557	06/14/2000	Robert C. Dixon	226/132	1401

59796 7590 04/03/2007  
INTEL CORPORATION  
c/o INTELLEVATE, LLC  
P.O. BOX 52050  
MINNEAPOLIS, MN 55402

EXAMINER
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TRAN, PABLO N

ART UNIT	PAPER NUMBER
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2618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/03/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/595,557

Applicant(s)

DIXON, ROBERT C.

Examiner

Pablo N. Tran

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-6, 12-20, 22 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) 26-29 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-6, 12-20, 22, 24 and 25 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claims 26-29 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Regarding claims 26-29, directed to a wireless communication system for communicating amongst a pattern of cellular communication cells wherein the pattern of cellular communication cells comprises a repeated pattern of classes of cells are arranged such that a cell from any one class is not adjacent another cell from a same class of cells and wherein the control station assigns a spread spectrum code for each corresponding class of cells.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 26-29 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### **Reissue Application**

2. Applicant is notified that any subsequent amendment to the specification and/or claims must comply with 37 CFR 1.173(b). In addition, when any substantive amendment is filed in the reissue application, which amendment otherwise places the

reissue application in condition for allowance, a supplemental oath/declaration will be required. See MPEP § 1414.01.

The amendments filed 05/31/01, 07/02/02, 01/30/03, 05/12/03, 09/17/03, 02/09/04, and 07/22/04 do not comply with 37 CFR 1.173(b), which sets forth the manner of making amendments in reissue applications (please refers to MPEP 1453). A supplemental paper correctly amending the reissue application is required.

3. The original declaration filed 6/14/00 does not appear to clearly set forth an error being corrected. The language identified in the declaration cannot be found in any specific claim and applicant has not indicated which claim contains the error. Furthermore, none of the many amendments filed, as stated above in item 1, was filed with a supplemental declaration in accordance with MPEP 1414.01. Therefore, since a new declaration will be required any way (for compliance with MPEP 1414.01), it would be best for attorney to also clarify the error (in accordance with MPEP 1414) when a new declaration is filed.

4. The 3.73(b) statement is defective.

The 3.73(b) fails to set forth that the assignee holds the 'entire title, right, and interest'. (see MPEP 324). Also, it is not signed by the same party who gave consent and does not provide any indication that the person signing is authorized to sign on behalf of the assignee.

***Allowable Subject Matter***

5. Claims 2-6, 12-20, 22, 24, and 25 are allowable over the prior art of record.

**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Tran whose telephone number is (571)272-7898. The examiner normal hours are 9:30 -5:00 (Monday-Friday). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571)272-7899. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) System. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-directauspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

8. In view of the Applicant's response filed on 07/25/06, PROSECUTION IS HEREBY REOPENED. As set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

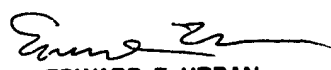
A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

March 29, 2007

**PABLO N. TRAN**  
**PRIMARY EXAMINER**



AV2618



**EDWARD F. URBAN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**